

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re:

Kelvin D Payton

Debtor.

Chapter: 13

CASE No: 1-18-46141-ess

OBJECTION TO LOSS MITIGATION REQUEST

Aleksandra K. Fugate, attorney(s) for Wells Fargo Bank, N.A. as servicing agent for Morgan Stanley Mortgage Capital Holdings LLC, successor-in-interest by merger to Morgan Stanley Mortgage Capital, Inc., affirms under penalty of perjury as follows:

1. This Objection is submitted in response to the Loss Mitigation Request by Debtor and certificate of service filed on November 8, 2018.
2. Debtor is not listed on the Note and is not an obligor.
3. As Debtor is not an obligor, no loss mitigation options will be available.
4. Loan is currently 150 payments delinquent and the loan is currently due for the June 1, 2006 payment.
5. Borrowers had only made one payment on the loan since its origination on March 2, 2006.
6. Loan was reviewed and removed as of October 23, 2006 due to the Repayment Plan being broken. Monthly income was calculated as \$6,100.00.
7. Debtor filed Bankruptcy on October 24, 2008 (1-08-47171-jf). Case was dismissed and case closed as of January 15, 2009.
8. Debtor filed a new Bankruptcy as of February 5, 2009 (1-09-40821-jf). Case was dismissed and case closed as of May 12, 2009.

9. Loan was removed from review as of August 21, 2009 per mortgagor's request.
10. Loan was reviewed and denied for a loan modification as of September 16, 2009 due to being unable to reach an affordable payment. Monthly net income was calculated as \$3,022.94.
11. Loan was reviewed and denied for a loan modification as of January 26, 2010 due to being unable to reach an affordable payment. Monthly net income was calculated as \$3,000.75.
12. Loan was removed from review as of February 18, 2010 as no response from the Borrower was received.
13. Loan was removed from review as of July 19, 2010 as Borrower did not provide a complete package for review.
14. Loan was removed from review as of August 16, 2010 per mortgagor's request.
15. Loan was removed from review as of June 8, 2012 as no response from the Borrower was received.
16. Debtor filed a new Bankruptcy on September 14, 2017 (1-17-44779-ess).
17. Debtor participated in the Court ordered Loss mitigation program. The Order was entered on December 27, 2017. Debtor did not provide any documents for review and the case was dismissed on June 27, 2018.
18. Loan was removed from review as of July 10, 2018 as no response from the Borrower was received.

19. Given the history of the loan, the prior Court ordered Loss Mitigation review, and that the Debtor is not an obligor and no loss mitigation options are available, the Secured Creditor requests an Order not be entered and the Request for Loss Mitigation be denied.

Dated: November 28, 2018

/s/ Aleksandra K. Fugate, Esq.

Aleksandra K. Fugate, Esq.

WOODS, OVIATT, GILMAN LLP

Attorneys for Secured Creditor

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IN RE:

KELVIN D PAYTON

CASE NO: 1-18-46141-ess

DEBTOR.

**AFFIDAVIT OF
SERVICE BY MAIL**

I, Josh MacDonald, being duly sworn, deposes and says: Deponent is not a party to this action, is over 18 years of age, and resides in Rochester, New York. On November 28, 2018 deponent served an Objection to Loss Mitigation Request upon:

Kelvin D Payton
114-16 173rd St
Jamaica, NY 11434

Norma E Ortiz
Ortiz & Ortiz LLP
32-72 Steinway Street
Suite 402
Astoria, NY 11103

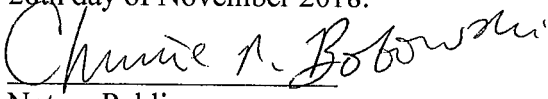
Trustee
Marianne DeRosa
Standing Chapter 13 Trustee
125 Jericho Tpke
Suite 105
Jericho, NY 11753

U.S. Trustee
Office of the United States Trustee
Eastern District of NY (Brooklyn Office)
U.S. Federal Office Building
201 Varick Street, Suite 1006
New York, NY 10014

By deposit a true copy, in a postpaid properly addressed envelope, in a post office box under the exclusive care and custody of the United States Postal Service at Rochester, New York


Josh MacDonald

Sworn to before me this
28th day of November 2018.


Notary Public

CHRISTINE N. BOBOWSKI
NOTARY PUBLIC-STATE OF NEW YORK
No. 01806278567
Qualified in Monroe County
My Commission Expires March 25, 2021